

1 GAVAN R. MUNTER (SBN 134924)  
2 **TIZA SERRANO THOMPSON & ASSOCIATES**  
3 Employees of the Corporate Law Department  
4 State Farm Mutual Automobile Insurance Company  
5 2710 South Gateway Oaks Dr., Suite 210  
6 Sacramento, CA 95833  
7 Telephone: (916) 561-2780  
8 Facsimile: (916) 561-2787

9 Attorneys for Defendant  
10 Debra Sue Peters

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA

13 KELLY M. MCLENDON,

14 Plaintiff,

15 v.

16 RACHELLE DUNCAN; DEREK  
17 DUNCAN; JUANITA FAGAN; JEFFREY  
18 FAGAN; AND DEBBIE PETERS,

19 Defendants.

NO. 2:11-CV-03240-JAM-EFB

**ORDER GRANTING MOTION FOR  
SUMMARY JUDGMENT**

20 The Motion for Summary Judgment of Defendant Debbie Peters ("Defendant")  
21 and the Cross Motion for Partial Summary Judgment of Plaintiff Kelly M. McLendon  
22 ("Plaintiff") came on for hearing on January 9, 2013 in Department 6 of the above-entitled  
23 Court, Judge John A. Mendez presiding. Frederick H Lundblade, Esq. of Black,  
24 Chapman, Webber & Stevens appeared on behalf of Plaintiff. Gavan R. Munter, Esq. of  
25 Tiza Serrano Thompson & Associates appeared on behalf of Defendant Debbie Peters  
26 ("Defendant.")

27 The Court, having reviewed and considered all moving papers submitted by  
28 Defendant Peters in support of her Motion for Summary Judgment; all papers submitted

1 by Plaintiff McLendon in opposition to Defendant's Motion for Summary Judgment and all  
2 papers submitted by him in support of his Cross Motion for Partial Summary Judgment;  
3 and all papers submitted by Defendant Peters in reply to Plaintiff's opposition and Cross  
4 Motion; and having heard the arguments of counsel, finds as follows:

- 5
- 6 1) As to Plaintiff's cause of action for Common Law Strict Liability, the Court finds  
7 that the cause of action is inapplicable to Defendant Peters;
- 8 2) As to Plaintiff's causes of action for Negligence and Premises Liability, the  
9 Court analyzed the moving papers submitted by the parties in light of the  
10 factors set forth in Rowland v. Christian (1968) 69 Cal. 2d 108, and finds that  
11 Defendant Peters did not owe a legal duty to Plaintiff McClendon under the  
12 circumstances surrounding the subject incident.

13 Accordingly, it is hereby ORDERED that Defendant Debbie Peters Motion for  
14 Summary Judgment is GRANTED; and Plaintiff Kelly M. McLendon's Cross  
15 Motion for Partial Summary Judgment is DENIED.

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17 Dated: 1/17/2013

18 /s/ John A. Mendez

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United States District Court Judge

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22 APPROVED AS TO FORM:

23 1/16/2013  
24 Date

23 /s/  
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Frederick Lundblade, Esq.